

ORDINANCE NUMBER \_\_\_\_\_ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA MODIFYING SECTION 7.12.170 OF THE SANTA MONICA  
MUNICIPAL CODE TO ADD WATER RECYCLING REQUIREMENTS

WHEREAS, the extreme dryness that has ravaged California now ranks as the driest 22-year period in at least 1,200 years; and

WHEREAS, California Water Code Section 461 requires the maximum reuse of recycled water in the satisfaction of requirements for beneficial uses of water; California Water Code Section 13550 states that it is a waste or unreasonable use of water if recycled water is available, is of adequate quality, of a reasonable cost to the user, will not be detrimental to public health, and will not adversely affect downstream water rights, or water quality, or be injurious to plant life, fish, or wildlife; and California Water Code Section 13551 provides that no one shall use water suitable for potable domestic use for non-potable uses, if suitable recycled water use is available; and

WHEREAS, recycled water is a source of water for approved non-potable uses as specified in the California Code of Regulations Title 22 Recycled Water Criteria; and

WHEREAS, the City's Water Division has constructed the Sustainable Water Infrastructure Project (SWIP), which is able to deliver treated wastewater at a tertiary level for non-potable uses and as allowed by Title 22 Recycled Water Criteria; and

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (RWQCB) has required, as a condition to permitting the SWIP (Permit Order Number R4-2021-0044), that the City adopt an ordinance providing for the use of recycled water; and

WHEREAS, the sale of recycled water to water customers that can use the water for approved purposes will benefit water ratepayers overall by reducing the need to purchase imported potable water; and

WHEREAS, recycled water is also a component of the City's 2020 Urban Water Management Plan, the long-range plan to develop a sustainable water supply portfolio; and

WHEREAS, the City has developed a recycled water system to meet the increasing urban demand and offset potable uses; and

WHEREAS, in order to expand its recycled water service, the City desires to require certain new developments to install facilities necessary for the delivery of recycled water, as a development standard.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 7.12.170 is hereby amended to read as follows:

### **7.12.170 Recycled Water Requirements**

**(a) Recycled Water Use.** Recycled water shall be used within the City's recycled water service area in-lieu of potable water for all approved uses consistent with all applicable federal, state, and local laws effective January 1, 2023.

**(b) Definitions.** The following definitions apply for purposes of administering this Section:

**(1) Recycled water.** Refers to domestic wastewater that has been cleaned so that it can be used more than once or reused.

**(A) Non-potable reuse.** Refers to the use of recycled water for non-potable uses. The City treats wastewater, stormwater, and urban runoff to a quality suitable for non-potable uses such as landscape irrigation, water features, or toilet flushing as regulated by Title 22 of California's Code of Regulations. Non-potable recycled water is not intended for human consumption.

**(B) Indirect potable reuse.** Refers to the use of advanced treated recycled water for a Groundwater Replenishment Reuse Project where the advanced treated recycled water is used to replenish a groundwater basin. The City treats wastewater, stormwater, and urban runoff to a quality suitable for groundwater replenishment regulated by Title 22 of California's Code of Regulations.

(2) **Recycled water service area.** The areas identified in the recycled water service area map. The recycled water service area map will be posted on the City's Water Resources Division website and included in the Guidelines.

(3) **Regulating agencies for recycled water.** Rules and Regulations for the end use of recycled water are enforced by the following agencies.

(A) **LARWQCB.** The California Regional Water Quality Control Board, Los Angeles Region, is the State of California agency that regulates discharges of recycled water to surface waters on behalf of the United States Environmental Protection Agency through the issuance of National Pollutant Discharge Elimination System or Waste Discharge Requirement/Water Reclamation Requirement permits, which incorporate applicable recycled water requirements for the production, distribution and use of recycled water.

(B) **DDW.** The State Water Resources Control Board, Division of Drinking Water is the State of California agency that regulates drinking water and coordinates with the Regional Boards to ensure a proposed recycled water project complies with all federal and state regulations for the protection of public health.

(C) **LACDPH.** The Los Angeles County Department of Public Health is the agency that certifies backflow prevention assembly testers, also having jurisdiction to regulate onsite cross-connection control in Los Angeles County.

**(4) Non-potable recycled water applications.** The City's recycled water is suitable for the following non-potable applications:

**(A) Surface irrigation application.** Allowable uses of recycled water for surface irrigation applications including any of the following: food crops, including all edible root crops, where the recycled water comes into contact with the edible portion of the crop; parks and playgrounds; school yards; residential and freeway landscaping; golf courses; cemeteries; decorative fountains; ornamental nursery stock where the public is not restricted; and other allowable applications specified by Title 22 of California's Code of Regulations provided approval is obtained from DDW and LACDPH.

**(B) Dual-plumbing application.** A system utilizing separate piping systems for recycled water and potable water within a facility and where the recycled water serves plumbing fixtures (excluding fire suppression systems) used for flushing toilets and urinals, industrial process or boiler feeds, commercial laundries or carwashes, industrial or commercial cooling towers, evaporative condensers within a building; and/or other allowable applications specified by Title 22 of California's Code of Regulations provided approval is obtained from DDW and LACDPH.

**(5) Guidelines.** Santa Monica Recycled Water Use Guidelines, Policy, and Procedures.

(6) **Applicant.** Means an Owner or authorized representative of a potential reuse site, who applies for recycled water service from the City, meeting user requirements set forth by LACDPH and DDW.

(7) **Director.** The Director of the City's Public Works Department or his or her designee.

(8) **New development.** Any new structure with any plumbing fixture(s), cooling tower(s), and/or new, enlarged, or relocated irrigation system, pond, or water feature.

(9) **Projected potable water demand.** The total amount of projected potable water demand for a proposed new development.

(10) **Projected non-potable water demand.** The total amount of projected non-potable water demand for a proposed new development.

(c) **Applicability for mandatory recycled water use.** All new development within the recycled water service area and with a total floor area of 7,500 square feet or more shall be required to utilize 100 percent recycled water for surface irrigation and/or dual-plumbing applications.

(d) **Exemptions for recycled water use.**

(1) Any exemptions recognized by the LACDPH.

(2) Fire protection systems in any development may not utilize recycled water and must be supplied by a separate potable water system unless allowed by LACDPH.

(3) Where recycled water quality has been deemed non-suitable for a particular fixture, equipment or application as reasonably determined by the Director; in such case, the particular fixture, equipment or application may be exempt from the use of recycled water and must be supplied by a separate potable water system.

(4) New development with a planning entitlement determined complete before January 1, 2023.

(e) **Recycled water implementation procedures.** Applicable candidates for recycled water use must utilize the following standards for the implementation of recycled water services.

(1) **Departmental standards, forms, and other regulations.** The City's Department of Public Works, Water Resources Division shall develop the Guidelines, including administrative standards, policies, procedures, and technical details, to carry out the purposes of this Section. The Guidelines shall be compiled in a separate document referred to as the Santa Monica Recycled Water Use Guidelines, Policy, and Procedures on file in the office of the Water Resources Division and posted on the City's Water Resources Division website. The City shall regularly maintain and update the Guidelines.

(2) **Recycled water service design standards.** Recycled water systems for surface irrigation and dual-plumbing applications shall be designed and installed in accordance with the Guidelines and Chapter 8.32 (Plumbing Code), as amended from time to time.

(3) **Operation, maintenance, and inspection standards.** Recycled water systems for surface irrigation and dual-plumbing applications shall be operated, maintained, and inspected in accordance with Chapter 7.12 (Utility Division); any approvals of the recycled water systems issued by the City, LACDPH, and DDW; and the Guidelines.

(f) **Permit and regulatory approval requirements for applicable candidates for recycled water use.**

(1) **Building Permit.** As required by Section 8.08.050, an approved building permit from the City shall be required for the use of recycled water. An administrative fee shall be imposed to cover cost of administering and implementing the recycled water use requirements of this Section and shall be set by City Council resolution. The administrative fee shall be assessed and paid to the City by the permit applicant at the time of issuance of the building permit.

(2) **Conditional approval for use of recycled water.** Applicant shall receive conditional approval for use of recycled water from LACDPH. LACDPH may also require the applicant receive conditional approval for use of recycled water from DDW according to the Guidelines. Applicant shall be responsible for filing required application(s) for recycled water service pursuant to this Section with LACDPH and DDW. Application requirements shall be pursuant to the Guidelines and as required by all applicable regulatory bodies. The City will not file applications to LACDPH and DDW on behalf of the applicant. The City will not issue a building permit until the necessary approvals or conditional approvals are obtained from LACDPH.



(3) **Other permits and regulatory approvals.** In addition to any permit required under this Section, the applicant must obtain and comply with all other required authorizations and permits and all other regulatory approvals from all City departments, and state and federal agencies.

(g) **Termination of service.** The City may discontinue recycled water service to a facility for the following reasons:

(1) **Non-payment of bills.** A service may be discontinued for nonpayment of any water charges of a customer, whether or not the payment delinquency is associated with recycled water service at the service connection or at any other City recycled or domestic water service connection of the same customer.

(2) **Benefit of public safety.** Service may be discontinued if, at any point in the City's distribution system, the recycled water does not meet the requirements of regulatory agencies. Service would, in such case, be restored at such time as recycled water again meets the requirements of regulatory agencies, or at such time as the City supplements the recycled water system with water from other sources.

(h) **Violations.** In addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of the municipal code, violations of the provisions of this Section are subject to the penalty provisions in Chapter 1.08.

(i) **Undue hardship appeal procedure.**

(1) The Director may exempt an owner or applicant from the requirements of this Section, upon showing by the owner that the requirements of this Section would cause undue hardship.

(2) For purposes herein, an “undue hardship” shall be found where imposition of the recycled water requirements would deprive the owner of a development site of all economically beneficial use of that site or otherwise be prohibited by applicable State or Federal law.

(3) An undue hardship application shall include all information necessary for the Director to make a finding of undue hardship, including, but not limited to, documentation showing the factual support for the claimed undue hardship.

(4) The Director may approve the undue hardship exemption application, in whole or in part, with or without conditions.

(5) Any exemption granted by the Director is effective immediately.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause,

or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

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JOSEPH LAWRENCE  
Interim City Attorney